

AT A MEETING OF THE MONTGOMERY COUNTY PLANNING COMMISSION ON AUGUST 21, 2013  
IN THE BOARD ROOM, SECOND FLOOR, COUNTY GOVERNMENT CENTER, CHRISTIANSBURG,  
VIRGINIA:

**CALL TO ORDER:**

Mr. Rice, Chair, called the meeting to order.

**DETERMINATION OF A QUORUM:**

Mr. Donahue established the presence of a quorum.

Present:        Bryan Rice, Chair  
                     Joel Donahue, Vice-Chair  
                     Coy Allen, Member  
                     Bryan Katz, Member  
                     Scott Kroll, Member  
                     Chris Tuck, Board of Supervisors Liaison  
                     Brea Hopkins, Development Planner  
                     Dari Jenkins, Planning & Zoning Administrator  
                     Erin Puckett, Senior Program Assistant  
                     Steven Sandy, Planning Director

Absent:         Cindy W. Disney, Secretary

**APPROVAL OF AGENDA:**

On a motion by Mr. Donahue, and seconded by Mr. Katz, and unanimously carried the agenda was approved with a modification to move approval of the consent agenda to just before the Work Session.

**PUBLIC ADDRESS:**

Mr. Rice opened the public address.

Jack Reed (6120 North Fork Road) said that his mother had received the letter regarding the potential Elliston comprehensive plan amendment. He explained that he did not want his property to be rezoned, although he would not have an issue with the former school property being rezoned.

Mr. Rice explained that this change would only affect the future land use map, not the actual zoning of the properties.

Mr. Reed said that he did not have an issue with the change in future land use designation.

There being no further comments the public address was closed.

## **DELEGATION:**

Ms. Craigie, President of the American Radio Relay League (ARRL) spoke to the prevalence and importance of amateur radio, particularly in Montgomery County. ARRL does much community-oriented work that is in the public interest, such as assisting with emergency broadcasts. She further discussed the legislation that limits local regulation of amateur radio towers.

Ms. Craigie further recommended, based on the proposed ordinance amendments regarding amateur radio towers, that the regulations expand upon the allowable pole colors to include black, as this is often less noticeable than the natural metal colors. She also said that she had spoken with Christopher Inlay, a communications lawyer in DC and ARRL member, who would be happy to offer some guidance regarding the wordage to be used in the ordinance amendments. She can provide his contact information to the Planning Commission and/or staff.

Mr. Rice asked if any of the Commissioners had questions for Ms. Craigie.

Mr. Kroll first thanked the speaker for coming, and asked about the 75 foot regulation, if that height was generally within reasonable parameters for amateur radio.

Ms. Craigie said that while 75 feet is normally fine, in general higher is better.

Mr. Allen asked for confirmation that the 75 foot limit comes from the State Code.

Mr. Donahue explained that 75 feet or less is allowed but the County could allow greater height through a special use permit. Towers must be limited to 200 feet maximum to prevent interference with aviation.

Ms. Craigie went on to explain how amateur radio operators are licensed through FCC through a series of exams and at three different levels.

Mr. Kroll asked if there are specific practices used in erecting towers for amateur radio, as the State Code has a reference to "reasonable practices for engineering"

Ms. Craigie said that this depends on the tower but generally there are recommendations provided by the tower manufacturer.

Mr. Katz noted that the exams for amateur radio licensure are difficult and should ensure that not just anyone is installing or using these facilities.

Ms. Craigie agreed and said that her organization also provides all of the technical and safety information.

Mr. Allen asked if towers are often constructed by amateur radio operators.

Ms. Craigie affirmed that they do often erect towers or install antennae themselves.

Mr. Allen brought up the concern of towers potentially falling on adjoining properties/buildings.

Ms. Craigie said that this is a factor of the quality of the engineering and installation. Furthermore, a guy tower is designed to collapse in on itself. In rare occasions that a tower falls, it usually falls on the property where it's located. It is in the installer's interest that the tower remains secure.

## **OLD BUSINESS:**

### Zoning Ordinance Amendments

Ms. Jenkins recapped the discussion from the August 14 Planning Commission meeting. The Board of Supervisors has asked the Planning Commission to amend the way in which the County ordinance addresses amateur radio towers. On August 14, the Commission discussed possible amendments.

State code does allow some regulation of amateur radio towers. With this in mind, staff have developed a definition and regulations for amateur radio towers.

Ms. Jenkins read the following proposed definition: "Amateur Radio Tower: A structure on which an antenna is installed for the purpose of transmitting and receiving amateur radio signals erected and operated by an amateur radio operator licensed by the FCC." She also recommended adding amateur radio tower as a by right use to zoning districts A1, C1, RR, R1, R2, and R3.

Ms. Jenkins also recommended an addition to Section 10-41 of some basic requirements for amateur radio towers, including a maximum height limitation of 75 feet, setbacks equal to the height of the tower, location limited to side and rear lots, natural color, etc. She then asked if the Commissioners had any questions.

Mr. Rice asked for clarification as to the recommended color or finish.

Mr. Donahue suggested changing it to neutral or matte black. He also stated that he would like to see these towers allowed in all zoning districts by right, and the setbacks reduced.

Ms. Jenkins explained that the proposed changes are an attempt to allow some leeway without making neighbors uncomfortable or unsafe.

Mr. Donahue said that as a professional engineer, he believes that a non-guyed tower may need a fall radius equal to its height, but the setbacks for guy towers should be reduced as they do not need as large of a fall radius.

Mr. Rice stated that even in the case of a guy tower, we don't want any 75 foot high tower near someone else's house.

Mr. Donahue said that Blacksburg's ordinance the tower must be set back a distance equal to its height from buildings, not property lines. What is being proposed here is more restrictive.

Ms. Jenkins explained that there are often other limitations on a lot that restrict where structures can be located. Overall, it is easier to measure setbacks from parcel boundaries than from structures.

Mr. Donahue asked if a setback is really necessary for a guy structure.

Mr. Katz suggested that it may be possible to adjust these requirements under a SUP if there was justification for it.

Ms. Jenkins explained that staff have received many complaints over the years when people locate structures (not just towers) too close to neighbors. Practically, the setback needs to be from the property line, as with any other construction. We want to allow towers but also need to realize that not everyone sees them in a positive light, so there is a need to balance those towers with some mitigating measures for affected property owners.

Mr. Donahue suggested adding "maintained" to the definition, to read "erected, operated, and maintained by an amateur radio operator..."

Mr. Kroll asked what would happen to the tower if the owner moves.

Ms. Craigie said that this depends on the situation. In some cases people dismantle and move or sell the tower. Furthermore, she asked to address the color issue again, saying that simply "dark color" may be better than "natural metal color", as this would allow dark green or black.

Mr. Donahue said that "nonreflecting dark color" would be better, and furthermore that towers need to be maintained by people who know what they're doing so should be removed when those people relocate.

Mr. Rice asked about including in the proposed standards section of the ordinance that unused towers must be removed after three months/90 days.

Mr. Donahue asked what would happen if someone loses their license or retires. Someone licensed needs to be maintaining the tower, but maybe another licensed individual who does not live at or own the property could maintain it.

Mr. Katz said that he thinks once the tower fails to be used, it should come down. He also asked what would happen if the owner's license lapses. There needs to be a reasonable timeframe in place to become relicensed.

Mr. Rice and Mr. Allen agreed that simply adding the word "maintained" to the definition should solve the problem.

Mr. Katz expressed concern that the definition implied towers needed to be erected by licensed individuals but this may be done by an outside firm. Furthermore, he suggested that GB be included in the list of zoning districts where they are allowed by right.

Mr. Allen said that due to a generally greater density in commercial areas, the setback distances may prevent towers there.

Mr. Kroll asked if any amateur tower over 75 feet would be a commercial tower, and if so, would a SUP be required for a 200 foot tower, even if it was for amateur radio.

Mr. Sandy confirmed that under the proposed regulations only those towers 75 feet or less would be considered an amateur radio tower and anything else would need an SUP.

Mr. Katz asked why amateur radio towers would not be allowed in CB zones.

Mr. Sandy answered that there is no objection to including other zoning districts where it is a by right use. The greater concern is with having these towers in a zone like multiple family residential. He stated that we could allow these towers by right in all districts other than PMR, TND, TND infill, and RM-1.

Mr. Katz asked why the ordinance should not allow towers in front yards if someone has a huge property. Mr. Donahue agreed, and asked if towers could be allowed in front yards such that they meet the fall radius requirements.

Mr. Sandy reminded the Commission that Blacksburg does not allow front or side placement of these towers. While it may seem alright in some areas, a tower in a front yard in a residential area may cause issues.

Mr. Katz asked if an applicant could apply for a SUP to place a tower in a front yard.

Mr. Sandy said that they could potentially apply for a variance, under certain circumstances, i.e., if the topography of the lot would not allow it elsewhere. That would be a case for the BZA.

Mr. Donahue requested that the explanation of when and how to apply for a variance be included in the "amateur radio tower" definition.

Mr. Sandy said that we probably cannot legally include that in the definition, and it would only apply in unique situations.

Mr. Rice asked the Commission about how they would like to change the part of the definition that describes the required finish/color.

Mr. Donahue suggested changing it to "non-reflecting dark finish".

Mr. Kroll asked if there needed to be some kind of provisions regarding the design, installation, etc. of towers, which would require customary engineering practices.

Mr. Donahue said that because this is in the State Code already, there is no need to duplicate that here.

Mr. Sandy suggested that after the Commission makes any changes to the proposed ordinance amendment, staff could potentially send this to the ARRL General Counsel in DC prior to the public hearing.

Mr. Tuck asked if Ms. Craigie and the other amateur radio experts may want to come back for a future Board of Supervisors' meeting.

Ms. Jenkins recapped the discussion from August 14 regarding ordinance amendments for park and ride lots.

Ms. Jenkins explained that staff had researched how other municipalities are defining park and ride lots, and had also looked at VDOT's definition which is more inclusive. Otherwise, there were not many examples to indicate how to manage noise and light disruptions versus safety of the lot's users, etc. Loudoun County allows commuter lots of fifty (50) spaces or less by right in most districts, with more than fifty (50) spaces requiring a SUP. A similar restriction may be useful for this particular situation, in which the proposed lot is near a dense residential area. There may be light and noise impacts, but the ability of residents to walk to the lot could also be a good thing.

Ms. Jenkins provided recommendations, including modifying the existing definition to be more inclusive, limiting the by right park and ride lots to 50 spaces or less in most zoning districts, and requiring a SUP for larger lots. A few districts, specifically residential ones, would require a SUP for any size park and ride lot. Furthermore, a section should be added to regulate these lots, which would exempt them from coverage requirements but hold them to the yard requirements of the districts. They would also require certain landscaping and paving, as with any regular parking lot. Ms. Jenkins asked for any comments.

Mr. Katz pointed out that motorcycles and all vans should be included in the definition. He asked if buses should also be included. He believes that commuter vans and buses should be allowed to park there.

Ms. Jenkins said that allowing buses to park there may turn these into storage lots.

Mr. Allen said that commuters only should be using the lots for "parking" and this should not affect collector vehicles.

Mr. Rice agreed, saying that buses should really only be loading or unloading there, and stored elsewhere.

Mr. Sandy agreed, adding that personal vans driven by commuters could park, but buses and/or other large vehicles used for transporting commuters to and from their destinations should only be picking up at those lots.

Mr. Katz asked why lighting is required for these lots.

Ms. Jenkins explained that this was for the safety of commuters travelling after dark. Furthermore, the zoning ordinance already limits the direction and brightness of outdoor lighting.

Mr. Donahue asked how large the existing Falling Branch lot is.

Mr. Sandy said that it is probably 50 spaces or less. The proposed size limitation is just a starting point, and can be changed.

Mr. Katz asked if someone wanted to put, for example, a 49-space lot on their property to service Virginia Tech football attendees, couldn't that be done by right under the proposed changes? Having all park and ride lots allowed under special use permit may be better.

Mr. Tuck asked if the Commission might table the ordinance amendment discussion so that those wishing to address the Commission regarding the proposed Elliston future land use change could speak.

Mr. Rice agreed and asked the Commission to move on to the comprehensive plan discussion.

### Comprehensive Plan Update

Mr. Sandy recapped the requested comprehensive plan amendment discussed at the August 14 meeting for the former Elliston-Lafayette Elementary School (ELES). Since then, letters were sent to the six (6) property owners who may also have an opportunity for a future land use change should the ELES property be changed. Staff received one phone call asking for more information. Mr. Sandy reminded the Commission and attendees that the request was only to change the future land use, not the zoning of the parcel, which would remain A-1 unless the applicant applies for rezoning. Currently the surrounding properties are primarily single-family residential, with one property including a small commercial operation allowed by SUP. It is located directly to the west of the ELES property, owned by Mr. Melton.

Mr. Sandy explained that the County had auctioned off this site, and the new owners requested the land use change so that they can rezone to RM-1. Comprehensive plan changes can only occur twice a year (February and August). This particular area falls within the Elliston Village Plan last changed in 2012.

Mr. Kroll asked what was located in the nearby high density residential area.

Mr. Sandy said that it is a mobile home park.

Mr. Allen explained to the property owners in attendance that a request has been submitted to change the future land use of the ELES property, but the Commission wants feedback from other property owners as to whether they would want their land use designation to also be changed.

Mr. Sandy further explained that the comprehensive plan is only a guideline and suggests general characteristics for future development. If this property were changed to medium density residential, it could have a combination of residential uses, walkable design, parks, public/civic uses, etc. As light industrial/commercial, this could include light industry, offices, research, business parks, and would be buffered from surrounding less intensive uses and have transportation links. The Village Plan suggests approximately four (4) residential units per acre, but under the zoning ordinance, this could be up to eight (8). A multifamily zoning designation could allow up to twelve (12) units per acre.

Mr. Sandy asked for questions or comments.

Mr. Rice asked if it was permissible to change the comprehensive plan designation for just one parcel. In other words, if surrounding property owners did not want the change, would it prevent a future land use change for the ELES property?

Mr. Sandy said no, the change could occur on the ELES property only. In addition, the Commission does not have to limit a future land use change to specifically what the applicant has asked for. An alternative, for example, could be to change the future land use to mixed-use, which may fit better with the surrounding uses and future land use designations.

Mr. Rice asked if the applicant could still potentially construct medium density residential units if in a mixed-use future land use designation.

Mr. Sandy confirmed that yes, this would still be possible, and in fact may give more flexibility.

Mr. Donahue commented that since the mixed-use designation does not include light industrial, it is more restrictive than the existing future land use designation.

Mr. Sandy clarified that mixed-use is less intensive but not necessarily more restrictive as it allows for a greater mix of uses. He added that he believes the Commission has 90 days to determine a recommendation.

Mr. Rice asked if the land use was changed on all seven (7) parcels, if this would limit those other property owners' ability to rezone in the future. For example, if the future land use was changed to residential, wouldn't it be harder to rezone to a commercial district?

Mr. Sandy said that the Board would ultimately have approval and would make that decision, but in such a case, a rezoning that went against the future land use would probably not be approved.

Mr. Kroll commented that the whole point of the comprehensive plan is to guide future development decisions. He asked for the reasoning behind changing the future land use to Industrial/Commercial.

Mr. Sandy explained that the future land use changes in this area were due primarily to the potential intermodal facility.

Mr. Kroll asked what changes have occurred since then to justify the change in land use.

Mr. Sandy said that currently, the uncertainty of the intermodal facility and the sale of the school property were two changes that had occurred that may lessen the need for industrial land use in the future.

Mr. Donahue suggested scheduling the public hearing now and determining the details later.

Mr. Rice said that the Commission should still let the public comment tonight before passing the resolution to schedule the hearing.

On a motion by Mr. Donahue and seconded by Mr. Allen and unanimously carried, the Commission agreed to allow comments from the adjoining property owners in attendance.

Marlene Taylor (6105 North Fork Road) spoke on behalf of the property owners in attendance. She is not one of the six (6) neighbors whose land may be up for a land use change, but those neighbors have expressed concern to her that they do not want their property rezoned and they would like the chance to speak to someone about it.

Mr. Rice assured Ms. Taylor and others in attendance that this would not change anyone's zoning. SHAH is requesting a change in future land use designation.

Ms. Taylor said that all of her neighbors wish to stay in an A-1 zoning district. She expressed a concern that if the school site is changed to a residential land use, she wants to make sure that her neighbors could still rezone to commercial or another zoning class should someone be interested in buying the land for that purpose.

Mr. Rice explained that under the current A-1 zoning, commercial uses would not be allowed, but a future land use designation of industrial/commercial would make it easier to rezone to a commercial designation.

Ms. Taylor asked if the applicant could put in low-income housing if the land use is changed, and if so, at what point would surrounding property owners would be able to fight such a development? She asked if this would also require a special permit.

Mr. Sandy clarified that the applicant would need to apply for a rezoning and/or a special use permit, at which time there would be public hearings and adjoining property owners would receive letters.

Mr. Allen further clarified that this discussion is simply an attempt to determine if these property owners would like to have their future land use changed since otherwise the ELES property splits the area in half.

Ms. Taylor said that the property owners do not want any change, and furthermore, are concerned about the prospective of low-income housing in the area, as they do not wish for their property values to drop.

Mr. Rice said that SHAH would have to apply for a rezoning to put in any residential use, at which time there should be an indication of the type of housing to be constructed.

Mr. Albert Carrier (9820 Roanoke Road) lives at one of the properties adjacent to ELES. He expressed a desire not to have his land use changed to medium density residential.

Jack Reed (6120 North Fork Road) said that he would prefer a land use of mixed use as opposed to medium density residential. He feels that the existing light industrial/commercial designation, or a mixed use designation, would provide more opportunities for development and be better for property values.

Mr. Rice asked Mr. Reed if the ELES site were changed to a future land use of mixed use, would he want his property to be included or to stay the same.

Mr. Reed said that he would prefer for all parcels to go to mixed use.

Mr. Donahue asked Mr. Reed how he felt about staying light industrial/commercial.

Mr. Reed likes the existing designation because he feels it presents an opportunity for a large purchaser to buy everyone out for a large industrial use. The nearby railroad and I-81 access supports this as well.

Mr. Donahue commented that it would be best to either change all seven (7) parcels or leave them all as is, rather than reassigning one.

Mr. Katz asked of the Commission decides to leave the land use designation as is, would it need to go to public hearing at all.

Mr. Sandy said that no, the Commission would then recommend that the Board leave it as is instead of recommending a public hearing.

Mr. Dubois (9694 Roanoke Road) commented that he would prefer to leave all parcels designated as they are, and that this may also be best for the County as a whole.

Mr. Rice asked if there were further public comments.

Mr. Donahue moved to deny the request and Mr. Katz seconded.

Mr. Kroll commented that he would prefer for the applicant to have a chance to present their request for the change, in order to be fair.

Mr. Rice asked if the Commission had to act on this matter tonight.

Mr. Sandy said that no, this was not an official application, so no action was currently required.

Mr. Katz added that this request would not negate a request for rezoning in the future, but the Commission should avoid "spot planning".

Mr. Kroll and Mr. Allen expressed a desire to hear from both sides before making any decisions.

Mr. Kroll further inquired as to the process for comprehensive plan amendments.

Mr. Tuck reviewed the amendment policy and clarified that a public hearing would still be required.

Mr. Donahue motioned to withdraw his motion to deny; Mr. Katz seconded.

On a motion by Mr. Donahue and seconded by Mr. Katz and unanimously carried, the resolution to schedule a public hearing for the ELES comprehensive plan amendment request with surrounding parcels included was approved.



Mr. Rice explained to attendees that the hearing will occur at the Planning Commission meeting on September 11.

Mr. Sandy added that this will be advertised in the paper and staff can mail notices to the affected property owners.

Mr. Katz added that those concerned could provide comments in writing to the Planning Department if they cannot attend the meeting.

On a motion by Mr. Katz and seconded by Mr. Allen and unanimously carried, the agenda was further changed to move on to the work session.

### **WORK SESSION:**

Mr. Sandy introduced the new iGIS website and noted that it will be revealed to the public shortly. He asked Bob Pearsall to demonstrate the new site.

Mr. Pearsall demonstrated the new iGIS portal and explained the features of the new site, including its ability to integrate with the Land Development Office software used by staff to enter and update applications and permits.

Mr. Sandy further explained how the integration with LDO works. Letters to property owners will also now include a QR code that when scanned takes them directly to the parcel on iGIS. There will also be integration with Facebook and Twitter, and will also have a chat feature.

Mr. Allen asked if staff would be policing the Facebook and Twitter accounts.

Mr. Pearsall indicated that Mrs. Hopkins and Ms. Puckett would be doing so.

Mr. Donahue asked how up to date the current iGIS site is.

Mr. Pearsall indicated that the site shows active permits only.

Mrs. Hopkins added that currently they only included those on which some activity had occurred in the last two weeks.

Mr. Pearsall explained that the site was very new and the database would build slowly based on activity.

Mr. Sandy added that if anyone knows a good chat program, please let staff know as that aspect is still in flux.

Mr. Kroll asked if the chat would become public record.

Mr. Sandy said that this could be a consideration as chats should be able to be saved. Social media and the chat feature can also be removed at a later time if they don't seem to work well.

Mr. Sandy stated that he would like to defer the further discussion of work session items on the agenda to a future meeting.

Mr. Donahue motioned that the Commission return to the ordinance amendment discussion; Mr. Kroll seconded.

### Old Business, Cont'd.

Ms. Jenkins continued the park and ride ordinance amendment discussion.

Mr. Kroll asked if there was any way to determine how many spaces were in existing local park and ride lots. He noted that the fifty (50) space limit seems arbitrary. An indication of other lot sizes may help to inform this.

Ms. Jenkins said that this may be available through VDOT.

Mr. Donahue asked if park and ride lots were allowed by right in any area of the County.

Ms. Jenkins said they are currently allowed by right in CB, GB, ML, M-1, PIN, and PUD-COM districts.

Mr. Katz asked if the lots could just be allowed by special use in all districts except those already allowing them by right.

Mr. Rice commented that requiring the lots to meet setbacks may solve some of this issue without requiring a SUP in all situations.

Mr. Donahue said that he believes anything larger than ten (10) spaces could cause issues.

Mr. Katz said that A-1 should not allow any size park and ride by right; Mr. Rice agreed.

Mr. Sandy agreed that A-1 and C-1 would be removed as districts in which they would be allowed by right.

Mr. Donahue said that requiring lots to meet district setbacks is too restrictive. So long as a VDOT right of way exits, there is no need to restrict these lots further.

Mr. Katz suggested that an applicant could always apply for a variance if setbacks could not reasonably be met.

Mr. Sandy said that the more important question is where these lots should go. These lots are rarely constructed anyway.

Mr. Donahue added that on small lots, it would be hard for a park and ride of any substantial size to meet the landscaping requirements anyway.

Mr. Rice suggested putting the park and ride amendments on the consent agenda to schedule the issue for public hearing in September.

It was the consensus of the Commission to add this item to the consent agenda.

#### **APPROVAL OF CONSENT AGENDA:**

On a motion by Mr. Donahue, and seconded by Mr. Katz, and unanimously carried the consent agenda was approved.

Mr. Kroll abstained from approval of the July 10 minutes, as he was not in attendance.

#### **NEW BUSINESS:**

None

#### **LIAISON REPORTS:**

Board of Supervisors: Mr. Tuck did not have anything to report from the Board meeting, but mentioned that he had seen the previously discussed flag pole at the Brush Mountain mobile home park that is being used as a telecommunications tower. He asked if this was legal to which Ms. Jenkins said that yes, because this was the tower that initiated the recent changes to the telecommunications tower ordinance.

Agriculture & Forestal District: No report.

Blacksburg Planning Commission: Mr. Allen said that the Blacksburg Commission voted to approve the new rescue squad building. Two additional properties in the Town are being sold, one of which will become student housing.

Christiansburg Planning Commission: No report.

Economic Development Committee: No report.

Public Service Authority: No report.

Parks & Recreation: No report.

Radford Planning Commission: No report.

School Board: Mr. Katz said that the students had been readmitted and the Board voted to pay the bills. They were expecting a permit for temporary occupancy for the Blacksburg High School.

Tourism Council: No report.

Planning Director's Report: Mr. Sandy told the Commission about the upcoming Planning and Zoning conference in Roanoke on October 13-15. If anyone would like to attend he asked them to let staff know. Mr. Kroll asked for staff to please send that information via email.

Mr. Sandy added that the next Certified Planning Commissioner Course would be in Blacksburg in January. The Commission should also consider having a joint meeting with the Blacksburg Planning Commission, as was done last year.

Mr. Kroll asked what the purpose of a joint meeting would be.

Mr. Sandy said that it could be useful to get the two commissions together. It could be an opportunity to discuss some of the vacant land in the County also. It would take the place of a regular County Planning Commission meeting.

There being no further business the meeting was adjourned at 10:25 pm.